

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2008-094243

02/24/2011

HONORABLE JAMES P. BEENE

CLERK OF THE COURT

K. Alger

Deputy

IN RE THE MARRIAGE OF  
SONIA CLAIRE DEBELLE

CHRISTOPHER MASON

AND

CHRISTOPHER LAUREN DEBELLE

CORY A STUART

GERALD MCCUSKER  
SARAH MCCUSKER

CHRISTOPHER MASON

**ORDER**

On January 13, 2011, Intervenor/Grandparents<sup>1</sup> filed a petition for grandparent visitation rights; motion to intervene; motion for expedited consideration. On January 26, 2011, Respondent/Father filed a motion to strike Intervenor's petition for grandparent visitation rights; motion to intervene; motion for expedited consideration. On February 22, 2011, the Court held an evidentiary hearing on Intervenor/Grandparent's petition. Intervenor/Grandfather, Petitioner/Mother and Father testified at the hearing. Based upon the evidence presented at the hearing, the Court enters the following order.

**VISITATION RIGHTS OF GRANDPARENTS—A.R.S. § 25-409**

Pursuant to A.R.S. § 25-409(A) a superior court may grant the grandparents of the child reasonable visitation right to the child on a finding that the visitation rights would be in the best interest of the child and the marriage of the parents of the child has been dissolved for a least three months. *See* A.R.S. § 25-409(A)(1).

In determining the child's best interests the court shall consider all relevant factors including the specific factors set forth in A.R.S. § 25-409(C). In making the findings in this case, the Court considered the factors set forth in A.R.S. § 25-409(C) and finds as to those factors:

---

<sup>1</sup> Intervenor/Grandparents are the maternal grandparents of the minor child.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2008-094243

02/24/2011

1. ***The historical relationship, if any, between the child and the person seeking visitation.*** Based upon the testimony presented at the hearing, the Court finds that the Intervenor/Grandparents have a strong and healthy relationship with the minor child.
2. ***The motivation of the requesting party in seeking visitation.*** The Intervenor/Grandparents are seeking visitation with the minor child in order to take him to France and Ireland for a family reunion and birthday celebration for the minor child's great-grandmother.
3. ***The motivation of the person denying visitation.*** Father is requesting that Intervenor/Grandparent's visitation be denied because he also has travel plans for the minor child during the period of time requested by the Intervenor/Grandparents. Father is also requesting that Intervenor/Grandparent's visitation be denied because the minor child is currently receiving failing grades in his reading class at school. (See Exhibit 10.)
4. ***The quantity of visitation time requested and the potential adverse impact that visitation will have on the child's customary activities.*** While the Court does not deny the benefits that the minor child would gain as part of his travel experiences to Europe, the Court finds that Father's concerns regarding the adverse impact that the minor child could potentially suffer by his absence from school is real and serious. It was uncontested at the hearing that the minor child is performing at a very poor level in reading. In fact, Father presented testimony at the hearing from the minor child's reading teacher that if the minor child does not rectify his current failing grade in reading, the minor child may have to repeat the sixth grade. The Court is concerned that the minor child's absence from school in order to accompany Intervenor/Grandparents on the trip to Europe would exacerbate his current scholastic difficulties. In addition, Father has plans to travel to California with the minor child and his sibling to attend a family reunion during the same period that the Intervenor/Grandparents would be in Europe. The Court finds that these two factors will have an adverse impact on the minor child's customary activities—i.e., attending school and spending annual parenting time with Father.
5. ***If one or both of the child's parents are dead, the benefit in maintaining an extended family relationship.*** This factor is not applicable in the instant case.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2008-094243

02/24/2011

In addition to the five (5) factors set forth in A.R.S. § 25-409(C), the Court also considered the statutory language found in A.R.S. § 25-409(D). This statute states in pertinent part that:

If logistically possible and appropriate the court shall order visitation by a grandparent or great-grandparent to occur when the child is residing or spending time with the parent through whom the grandparent or great-grandparent claims a right of access to the child.

In this case, the Intervenor/Grandparents are requesting visitation with the minor child during Mother's and Father's parenting time. (*See* Exhibit 1.) At the hearing, it was established that Intervenor/Grandparents would have the minor child during the minor child's Spring Break—a time normally reserved for Father. (*Id.* at 2.) In fact, as previously stated, Intervenor/Grandparent's requested visitation with the minor child would deny Father his ability to take the minor child to California for a family reunion during the minor child's Spring Break vacation. Intervenor/Grandparent's request for visitation with the minor child is therefore contrary to language as set forth in A.R.S. § 25-409(D).

Additionally, in *Graville v. Dodge*, 195 Ariz. 119, ¶¶ 23, 33, 985 P.2d 604 (App. 1999), the Arizona Court of Appeals held that A.R.S. § 25-409 is “structured to enable the court to make grandparent visitation a minimal burden on the rights of the child's parents” by requiring the visitation order to be as “minimally intrusive as possible.” The Court finds that based upon the aforementioned statutory factors and the subsequent findings of the Court, as well as the guidance provided by the court of appeals' decision in *Graville v. Dodge, supra*,

**IT IS ORDERED** denying Intervenor/Grandparent's petition for grandparent visitation rights.

**IT IS FURTHER ORDERED** signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

FILED: Exhibits Worksheet

DATED the 24<sup>th</sup> day of February, 2011

/S/ HONORABLE JAMES P. BEENE

---

JAMES P. BEENE  
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2008-094243

02/24/2011

All parties representing themselves must keep the Court updated with address changes.  
A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.